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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,298	05/03/1999	AUSTIN D. TAGGART II	TH1118	9493

7590

10/15/2002

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EXAMINER

SHIPPEN, MICHAEL L

ART UNIT

PAPER NUMBER

1621

DATE MAILED: 10/15/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.



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Below is a communication from the EXAMINER in charge of this application.
COMMISSIONER OF PATENTS AND TRADEMARKS.

ADVISORY ACTION

THE PERIOD FOR RESPONSE CONTINUES TO RUN THREE MONTHS FROM THE DATE OF THE FINAL REJECTION.

Any extension of time must be obtained by filing a petition under 37 C.F.R. § 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the proposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 C.F.R. § 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

Applicant's response to the final rejection, filed September 30, 2002 has been considered with the following effect, but is not deemed to place the application in condition for allowance:

1. The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
 - a. There is no convincing showing under 37 C.F.R. § 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. They raise new issues that would require further consideration and/or search. The proposed claims read on a variety of embodiments not present in the claims before the examiner in the Final Action, e.g., the "means" set forth in proposed claim 138 and the new limitation on the ratio of diluent to crude bottom with respect to the expression of "at least" and the range of "0.45 to 6.0:1". Consideration of these new embodiments at this time would require further consideration as to whether the prior art rejection should be modified. It may even require further search to determine whether such an embodiment is suggested or is an obvious modification in the art. Also, the "said means" of proposed claims 59-62 have no apparent basis in the parent claims raising new issues under 35 U.S.C. 112. The limitations on the ratio of diluent to crude bottom stream of claims 79, 80 and 87 appear to be

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outside the required range of the parent claims raising new issues under 35 U.S.C. 112. It appears that claims 56, 77, 78 and 85 are identical and claims 58 and 86 are identical raising issues as to duplicate claims. The limitation on the claim 60 with respect to "0.60" appears to lack support in the specification for degree of precision recited raising new issues under 35 U.S.C. 112. The proposed changes to claims 64-68 and 110-128, as well as, proposed new claims 129-132, 140, 144, 148, 152 and 155 would require new grounds of rejection because they now read on the new phrase, such as, "organic diluent having a first density sufficiently less than a second density of said phenol bottoms stream to attract phenol from said mixture into an organic phase" which is ambiguous and appears to lacks support in the specification as filed raising new issues under 35 U.S.C. 112.


Also, the amendment fails to comply with 37 CFR 121 (c)(1)(ii) since the marked version of claims 125-128 does not represent amendment to the claims as originally presented. As such, it unclear if applicants have made some error in their proposed amendment to these claims.

- c. They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
2. Upon the filing of an appeal, the proposed amendment will not be entered and the status of the claims in this application would be as follows:

Allowed claims : 1-18, 21, 22 and 125-128
Claims objected to : NONE
Claims rejected : 23-124
Claims canceled : 19 and 20.

3. The request for reconsideration has been considered but does not overcome the rejections for reasons of record. It is further noted, that while the specification indicates that the density of the diluent is to be less than that the crude bottom stream and that phenol is attracted into some diluents having specific properties, there is no disclosure that the difference in density and the attraction are somehow interrelated as to be "sufficiently less ... to attract phenol from mixture into an organic phase". Moreover, the phrase "second density of said phenol bottom stream" suggest it posses more than a single density (i.e, a first density, a third density, etc) which simply does not make sense.

MShippen
October 11, 2002


MICHAEL L. SHIPPEN
PRIMARY EXAMINER
ART UNIT 1621